

Examinations of Competency to Stand Trial: Foundations in Mental Health Case Law, by Richard I. Frederick, Richard L. DeMier, and Karen Towers (Sarasota, FL: Professional Resource Press, 2004), 272 pp., \$34.95.

REVIEWED BY
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Assessing a defendant's competency to stand trial is an area where mental health and law can overlap, but they can also disagree. Those involved in the process, whether on the legal side or the mental health side, need to understand how each side approaches the issue. More importantly, the mental health examiners must have a clear idea of what information is necessary for the judge to make a determination of competency.

Examinations of Competency to Stand Trial is intended to explain how the courts construe competency. The authors make it clear in the introduction that this is not a "how to evaluate" book. They want us to understand the thinking of the courts regarding various issues of competency. It is hoped that this understanding will lead clinicians in the right direction when providing evaluative information to the courts.

The book is divided into five sections: Standards of Competency, Thresholds of Competency Evaluations, Constitutional and Judicial Considerations, Incompetent Defendants, and Amnesia and Competency. Each section includes a brief outlining the essential facts of the case, and then a discussion of the court's analysis and ruling. The authors provide what they call Implications for Examiners at the end of each section. This is an important area of focus because it helps the examiner see how the courts' rulings may be applied when the evaluation is conducted.

Many of us have probably seen reports from examiners who describe the defendant well and provide a clear and supportable diagnosis but do not really address the issue of competency.

This type of report only wastes time and resources; it does not help the court make an informed decision. As the authors point out, the *Dusky v. United States* decision made note of the importance of the need to have the clinician provide more than a diagnosis. The court needs to hear from the clinician what the defendant can and cannot do relevant to the issues of competency. This requires sound and accurately detailed information and a rationale for the opinion offered by the clinician. The court needs to know not only if the defendant is mentally ill, but also the extent to which he is capable of consulting and working with his attorney and if he has an understanding of the legal process and can participate in his defense.

The emphasis in competency evaluations, though, is on providing the data necessary for the court to rule, not on making a legal opinion. Competency is considered to be a legal condition that reflects values of statutory and case law at a particular time and within a particular jurisdiction. The clinician operating within a certain jurisdiction must be aware of the requirements of the law and how it is applied.

The authors note that decisions from the Supreme Court make it less likely that there will be major differences among various jurisdictions. However, state legislatures may create standards that are higher than federal standards, making it important for the evaluator to keep current on all appropriate laws within the jurisdiction in which he or she practices. The clinician must clearly understand the language of the law to be able to communicate effectively with the court.

One area I have found interesting in my experience has to do with the question of restoring the defendant to competency. This is a critical issue for the court, and it requires the evaluator to give useful input in the form of prognostic statements. At various points in the book, the authors discuss the need to explain to the court factors regarding changes in mental health states and the effects of medication on these states. One would expect physicians to be better suited to discuss the

biological aspects of medication. On the other hand, all mental health experts in this field need to be able to provide information to the court about how medications can affect the functioning of the defendant.

This book should be useful to attorneys as well as to mental health practitioners. The more all those who handle competency cases—be they attorneys or mental health experts—understand the process and the information needed to make the process work, the more likely it is that we will be able to work together and achieve the goal of understanding the key issues of competency to stand trial. Understanding these important legal cases will result in a refinement of the process for all those involved.

BOOKS RECEIVED

J.B. Ashford, B.D. Sales, W.H. Reid. *Treating Adult and Juvenile Offenders with Special Needs*. Washington, DC: American Psychological Association, 2001, 518 pp., \$49.95.

B. Bongar. *The Suicidal Patient: Clinical and Legal Standards of Care, Second Edition*. Washington, DC: American Psychological Association, 2002, 276 pp., \$49.95.

J.P. Choca. *Interpretive Guide to the Millon Clinical Multiaxial Inventory, Third Edition*. Washington, DC: American Psychological Association, 2004, 416 pp., \$49.95.

L.O. Condie. *Parenting Evaluations for the Court: Care and Protection Matters*. New York: Kluwer Academic/Plenum Publishers, 2003, 400 pp., \$59.95.

R.J. Craig. *Personality-Guided Forensic Psychology*. Washington, DC: American Psychological Association, 2005, 400 pp., \$59.95.

K.A. Driscoll, K.C. Cukrowicz, M.L. Reardon, T.E. Joiner, Jr. *Simple Treatments for Complex Problems: A Flexible Cognitive Behavior Analysis System Approach to Psychotherapy*. Mahwah, NJ: Lawrence Erlbaum Associates, Inc., 2004, 244 pp., \$59.95.

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